IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/02/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NO.10302 OF 1999 AND WRIT PETITION NO. 14201 OF 2002
AND
W.P.M.P.NOs.14589 OF 1999 & 19159 OF 2002

1. A. Hepsybah Inbam
2. C. Helen Rani
3. B. Packiya Selvam .. Petitioners in WP.10302/99

The Corporate Management of
C.S.I. Schools of Kanyakumari
Diocese, rep. by its Corporate
Manager R. John Duraisingh .. Petitioner in W.P.14201/02

-Vs-

1. The Government of Tamilnadu
rep. by its Secretary,
Education Department,
Fort St. George,
Chennai 600 009.

2. The Director of School Education,
College Road,
Chennai 600 006.

3. The District Educational Officer,
Nagercoil,
Kanyakumari District.

4. The Corporate Management Schools,
Kanyakumari Diocese of C.S.I.,
rep. by its Corporate Manager,
Diocesan Office, 71A Dennis Street,
Nagercoil-1. .. Respondents

5. The Chief Educational Officer,
Nagercoil, Kanyakumari District. .. Respondent No.3
in WP.14201/02

Petitions filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.N. Paul Vasantha Kumar

For Respondents 1-3 : Mr.S.P. Prabhakaran
Govt. Advocate

:J U D G M E N T

The petitioners in W.P.No.10302 of 1999 were appointed as Secondary Grade Teachers in different schools managed by the fourth respondent. In course of time their appointment had been approved and they were being paid salary by the Government. Subsequently, the third petitioner, Smt.B. Packia Selvam, was promoted as B.T. Assistant and being paid salary accordingly. While the matter stood thus, the question of fixation of students teacher ratio was taken up by the Government. In G.O.Ms.No.317 dated 25.7.1997, the first respondent took a policy decision to sanction additional teaching posts to minority schools with effect from 1-6-1997 applying 1 : 50 as teacher-students ratio and the Director of School Education was requested to send a detailed proposal for the sanction of additional posts in respect of various schools. the relevant portion of the G.O.Ms.No.317 dated 25.7.1997 is extracted hereunder:
 . . . In pursuance of the decision arrived, the Government after careful consideration directing that teaching posts on the regular time scale of pay for assessment of salary grant with effect from 1-6-19 97, be sanctioned to the Minority Schools based on the teacher-pupil ratio of 1:50 with reference to the over all strength based on average attendance. The eligible Minority Institutions shall prefer their claims with school wise details through the concerned Chief Educational Officers/District Elementary Educational Officers who will scrutinise the claims and forward them to the Director of School Education/ Director of Elementary education for clearance. The total number of posts school-wise to be sanctioned shall be reported to Government by the Director of School Education/Director of Elementary Education for issue of a normal sanction order, within a month. Consequent on the application of the teacher-pupil ratio of 1:50 any surplus posts assessed shall be resumed. . .

On the basis of the aforesaid policy decision, the Director of School Education, the second respondent, submitted details of the schools along with students strength and additional posts to be sanctioned. The Government after considering such proposal in the light of the G. O.Ms.No.317 dated 25.7.1997, passed G.O.Ms.No.523 dated 29.12.1997.
The relevant portion of the above G.O. is extracted hereunder :-
 ... 2. The Government after careful examination of the proposals sanction additional posts, for purpose of assessment of grant, to the schools as detailed in the Annexures I and II of this order, with effect from 1.6.1997. The incumbents besides pay at the minimum of the scale of pay shall be eligible for other allowances as admissible under the orders in force from time to time. The appointments made against additional posts should satisfy the norms, guidelines and orders in force. The competent authorities should satisfy before release of grant, that the Management have fulfilled all the conditions relating to the appointments. The schools opened upto the academic year 199 0-91 shall alone be covered under this order. If it is found later

that any of the school is not eligible for the additional post, it shall be withdrawn without any notice and the Management cannot claim the post as a matter of right.
3. The excess teaching posts found consequent on the application of G.O.Ms.No.317, School Education Department, dated 25.7.97 shall be allowed to continue till new norms same into effect and resumed thereafter based on students strength, wherever necessary. . .

Annexure-I of the aforesaid G.O. contains the list of various schools and number of teaching posts sanctioned with reference to G.O.Ms. No.317 Dated 25.7.97. Entry No.274 indicates sanction of three posts of Secondary Grade Teachers and 5 posts of B.T. Assistants in respect of Duthie Girls Higher Secondary School, Nagercoil in Kanyakumari district. The aforesaid school is managed by the fourth respondent Management. On the basis of the aforesaid G.O., fourth respondent took steps to appoint teachers and also to transfer teachers from the existing school to other schools. Accordingly, the petitioners were transferred and posted in Duthie Girls Higher Secondary School and other teachers were appointed against their original postings. Subsequently, under the impugned order, the second respondent refused to accord approval for the appointment of three petitioners in Duthie Girls Higher Secondary School. This order is being challenged in the present writ petitions.

The petitioners have also prayed for a direction to the respondents 1 to 3 to pay salary of them with effect from 2.2.1998.

2. The connected writ petition has been filed by Duthie Girls Higher Secondary School for granting similar relief to the concerned teachers. For convenience, the expression petitioners shall be construed to refer to the petitioners in W.P.No.10302 OF 1999.

3. It has been asserted that appointment of other persons against the previous postings of the present petitioners have been approved and there is no justification to deny approval to the posting of transfer against the new posts.

4. In the counter affidavit filed by the third respondent, while not denying the aforesaid basic allegations, it has been stated that the the second respondent has specified a condition to the effect that ratio of 1:50 is on the basis of students in Tamil Medium schools/ sections and the ratio was not intended to cover the case where medium was in English and therefore, the appointment of three petitioners even if by way of transfer cannot be accepted.

5. The relevant paragraphs of G.O.Ms.No.317 dated 25.7.197 and G.O.Ms.No.523 dated 29.12.1997, which have been extracted earlier,do not indicate that 1:50 ratio was fixed on the basis of number of students in Tamil medium school or sections of a particular school. Therefore, the interpretation put by the respondent No.2 does not appear to be correct. G.O.Ms.Nos.317 and 523 had been passed by the Government. If any clarification was required, it was for the Government to consider and issue

any clarification if necessary and the second respondent should not have taken up the task of clarifying the intention under those two orders. Moreover, G.O.Ms.No.523 dated 29.12.1997 had specifically created new posts and three petitioners, who were already holding approved posts were transferred to such school, where new posts were created. Therefore, there is no justification to deny the benefit of salary to the petitioners.

6. For the aforesaid reasons, the writ petitions are allowed and the respondents 1 to 3 are directed to pay the salary of the three petitioners with effect from their date of posting in Duthie Girls Higher Secondary School, Nagercoil in Kanyakumari district. The arrear salary payable till the end of February, 2003 shall be paid within a period of four months from the date of communication of the order and the current salary payable for the month of March and thereafter shall be paid as per the usual norms. There will be no order as to costs. Consequently, connected Miscellaneous petitions are closed.

Index : Yes
Internet : Yes
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To
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